

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Petition of SBC Communications Inc. for the)	DA 00-191
Waiver of the Eligibility Requirements of)	
47 CFR Section 24.709 for the PCS)	
Frequency Blocks C and F Auction to)	
Begin on July 26, 2000)	
)	
Reauction of Certain C and F Block Broadband)	
PCS Licenses; Petition by Nextel Communications,)	
Inc. for Expedited Rulemaking or, in the)	
Alternative, Waiver of the Commission's Rules)	
)	

Reply Comments

The Office of Advocacy of the United States Small Business Administration (“Advocacy”) opposes the petition for waiver filed by SBC Communications Inc. and the petition for expedited rulemaking or waiver filed by Nextel Communications, Inc., (collectively “Petitioners”). Permitting large companies to bid in the upcoming re-auction of Personal Communications Services (“PCS”) C- and F-Block licenses would drive small businesses from the telecommunications marketplace. Such a course would harm small business, both as service providers and as customers, would delay – not speed – service to the public, and would deter competition. The Commission’s PCS designated entity policies have begun to succeed, as the last auction of PCS C-Block spectrum demonstrates. Greater success is likely. But abandoning small business exclusivity would encourage further concentration of the telecommunications services, contrary to Congress’s goal of disseminating licenses among a variety of licensees in order to promote competition, innovation, and diversity in telecommunications.

Strong public policy reasons urge the Commission to retain its current designated entity

rules. Congress encourages diversity in the telecommunications marketplace and discourages concentration of many licenses among few companies, so that competition and innovation flourish.¹ Congress believes disseminating spectrum licenses among a variety of applicants, including small, minority, and women owned businesses, will increase competition and bring innovative technologies to the American consumer.²

The Commission has pursued policies that fulfill Congress's mandate. To ensure that designated entities have a realistic opportunity to obtain broadband PCS licenses, the Commission set aside the C- and F-Blocks for exclusive participation by small businesses.³ The Commission recognizes that small entities stand little chance of acquiring licenses if required to bid against large companies.⁴ Thus, to prevent the auction process itself from becoming a barrier to small business entry, the Commission reserved a portion of the available spectrum for the exclusive use of small businesses.⁵

The Commission's designated entity policies are succeeding. A few companies failed to pay for licenses for which they bid too high, but the Commission has eliminated its installment plan, reclaimed defaulted licenses, and successfully re-auctioned PCS C-Block spectrum to designated entities. All these bidders have paid for their licenses, and many have launched subscription services to customers. Many more are poised to do so in the coming months.

Petitioners suggest that the Commission's PCS designated entity provisions are anti-competitive. The opposite is true. The designated entity provisions increase the variety of market participants. This increases competition and brings innovative products to the

¹ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, Fifth Report and Order, PP Docket No. 93-253 (1994).

² Id.

³ Id.

⁴ Id.

⁵ Id.

marketplace. This benefits customers, including small business customers, by increasing consumer choice, improving service quality, and offering products tailored to customer needs. The rules also permit wide latitude for large companies to form strategic partnerships with small businesses;⁶ such collaborations are bringing competitive services to customers. Thus, the designated entity rules increase the variety of market players and service offerings, and increase competition.

Petitioners offer no public policy reasons for altering the Commission's designated entity principles. Petitioners offer NextWave Personal Telecommunications, Inc.'s bankruptcy as an indictment of small business competitiveness and the Commission's designated entity plan. This is a smoke screen, designed to disguise the fact that these big businesses want more spectrum. But ceding to their wishes would have profound, negative, public policy consequences. Surrendering the PCS C-Block would *encourage* concentration in telecommunications, the exact opposite of Congress's desire in enacting the Telecommunications Act of 1996. This would give big business a lock on wireless spectrum, would eliminate the chance that another small business would ever again be licensed on any PCS spectrum valued by a large business, would wreak havoc with financing of current small business licensees, and would limit the quality and variety of wireless services available to consumers.

Big business has more than enough wireless spectrum. Big businesses operate the vast majority of PCS licenses, on the A-, B-, D-, and E-Blocks. And the rules permit large businesses to partner with designated entities competing for C- and F-Block licenses. In addition, the Commission is about to offer spectrum at 700 MHz, for 3G technology, in an auction ideally suited to large-footprint operations and not subject to spectrum caps on commercial mobile radio

⁶ See 47 CFR § 24.709 (1998).

services.⁷ Large business is limping right along despite the PCS designated entity provisions.

Small businesses are crucial to the American economy. They are a chief force for experimentation, innovation, new technology, and economic growth. Small businesses form a large proportion of the American customer base, employ most of the labor force, and create almost all new jobs. Small business also is the primary mechanism for entry to the American economy for millions of people, including minorities, women, and immigrants, who historically have had few opportunities to share the American dream.

The designated entity provisions benefit consumers and benefit competition, and are succeeding. And the upcoming re-auction promises to be as successful, if not more so, than the last one; the licenses at stake cover some of the largest markets in the country, and financing appears abundant. Thus, the Commission should offer these licenses to designated entities, without the availability of installment financing, in exact accordance with its well-reasoned policies and the expectations of the telecommunications and small business communities.

Respectfully submitted,

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⁷ See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, First Report and Order, WT Docket No. 99-168, released January 7, 2000.

Certificate of Service

A copy of the foregoing Reply Comments was served by first class mail upon the following individuals:

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